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October 4, 2007

BY FACSIMILE

Hon. Frank Maas
United States Magistrate Judge
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 740
New York, New York 10007

Re: Bush v. Horn, et al.
07 Civ. 3231 (RJS) (FM)

Dear Judge Maas:

This office represents New York City Department of Correction Commissioner Martin Horn in the above-referenced matter, in which *pro se* inmate plaintiff Darrell Bush seeks damages based on his alleged exposure to asbestos. A telephone initial case management conference is currently scheduled for October 11, 2007 at 2:00 p.m. I write on behalf of defendant Horn and co-defendant D&S Abatement, Inc. to respectfully request an adjournment of this conference. This is the second such request, the first of which was granted. As Mr. Bush is incarcerated, we have not been able to obtain his consent to this request.

We seek this adjournment because, as is more fully explained in my October 4, 2007 letter to Judges Karas, Sullivan, and Berman (a copy of which is enclosed), I have requested that this action be stayed and consolidated with two other actions that have been filed using a virtually identical complaint. We anticipate that more of these actions may follow. Consequently, we request that the conference be adjourned for a period of time sufficient to allow the Court to define the total universe of related *pro se* actions, and to determine whether those cases should be consolidated.

In addition, this office wishes to file an amended answer on behalf of Defendant Horn and is in the process of seeking Mr. Bush's written consent to do so.

Finally, a review of Mr. Bush's complaint suggests that it may well be appropriate to file dispositive motions in his and the other plaintiffs' actions prior to the commencement of discovery.


MEMO ENDORSED

The conference is adjourned to November 14, 2007 at 10 AM, by which time I presume the judges assigned to the first three cases and the Assignment Committee will have reached some decision. Fullas, USMJ, 10/4/07

For all of these reasons, we respectfully submit that the currently scheduled discovery conference be adjourned until Judges Berman, Karas, and Sullivan determine the appropriate course in handling these, and possibly other, related cases, and that it be re-scheduled, as appropriate at the further order of the Court, based upon the Court's determination of how the issue of consolidation is resolved.

Thank you for your consideration of this request.

Very truly yours,



JONATHAN PINES
Deputy Chief
General Litigation Division

Encl.

cc: Karen Drotzer, Esq. (by facsimile)
Darrell Bush (by mail)